EXECUTIVE SUMMARY
PHASE III BONDING ACT

SENATE FILE 477

FUNDING SUMMARY

- Creates the Appropriation Bonds Capitals Fund (ABC Fund) to receive net bond proceeds of $105.0 million from the issuance of appropriation bonds in FY 2011.
- Appropriates $5.0 million from the ABC Fund to the Iowa Energy Center for the Alternate Energy Revolving Loan Program for FY 2011.
- Appropriates $100.0 million from the ABC Fund to the new Vertical Infrastructure Restricted Capitals Fund for FY 2011.

BONDING SUMMARY

- Authorizes the Treasurer of State to issue appropriation bonds. Appropriation bonds are a special type of limited obligation bond that do not require a designated revenue stream as does a typical revenue bond, thus the State may opt for any source of funds for repayment. Appropriation bonds also do not require the State to pledge its full faith or credit through taxes and resources or charge against the general credit or General Fund of the State as would be required for General Obligation (GO) bonds. Iowa does not have any outstanding GO bonds. Appropriation bonds are expressly conditioned on the State making an affirmative act to appropriate funds for repayment each fiscal year.

FISCAL IMPACT: Debt service on the proposed bonds is estimated to be $8.4 million per year if a debt service reserve fund is needed. In contrast to revenue bonds, appropriation bonds are marketable without a reserve fund. For a revenue bond, the source of repayment is a designated revenue stream and the debt service reserve fund is needed to protect bondholders in case the revenue stream is inadequate. For appropriation bonds, the source of funds for repayment is flexible and bondholders may not require a reserve fund. Bonds will be issued and interest will be capitalized. The first debt service payment will be in FY 2012 and the bonds will have a duration of approximately 22 years. The last bond payment is expected to be in FY 2034. Use of bond proceeds will need to meet tax-exempt requirements of the Internal Revenue Code. Total new debt is projected to be approximately $213.0 million. The projected interest rate on the appropriation bonds is approximately 4.9%.

DIVISION I

AUTHORIZATION AND SPECIFICATIONS FOR BONDS

ANNUAL APPROPRIATIONS BONDS

- Authorizes the Treasurer of State to issue, sell, and refund annual appropriation bonds. Defines terms for purposes of appropriation bonds. (Page 1, Line 3 through Page 2, Line 1)
- Sets the maximum aggregate net proceeds amount at $105.0 million for purposes of alternative energy projects and the Vertical Infrastructure Restricted Capitals Fund. (Page 2, Line 2)

STATE NOT OBLIGATED BEYOND CERTAIN MONEYS

- Specifies the annual debt service on appropriation bonds is payable solely from the moneys appropriated for a certain fiscal year to the debt service fund or reserve fund created for that purpose. The bonds are not secured by the full faith and credit or the taxing powers of the State. Annual appropriation bonds do not obligate the State to make payments beyond any fiscal year that has sufficient funds appropriated. (Page 4, Line 8)

SUBJECT TO NONAPPROPRIATION

- Specifies that if the funds are not appropriated for a fiscal year, the State will not be obligated to make a payment from any source of any amounts beyond the amount of the previous appropriation. The State will not be held liable for the debt or any repercussions from the lack of an appropriation for payment of the debt service. Annual appropriation bonds are subject to nonappropriation and are expressly conditioned on the State appropriating funds for repayment. Any annual appropriation bonds will include a statement for the bondholders of the limitations of the State's liability. (Page 4, Line 28)

TAX-EXEMPT BONDS

- Appropriation bonds will be exempt from State taxes. (Page 5, Line 19)
- NOTE: Appropriation bonds issued are expected to be exempt from federal taxes as well; however, the Treasurer of State will have the flexibility to take advantage of the Build America Bonds (BABs) authorized under the federal American Recovery and Reinvestment Act of 2009, if those bonds are more cost-effective and beneficial to the State.

BUDGETING AND APPROPRIATIONS FOR PAYMENTS

- Requires the Treasurer of State to report annually by January 1 to the Governor and the General Assembly the amount needed to make the payments for the debt service. (Page 5, Line 26)
- Requires the debt service appropriation to be made to the Treasurer of State. (Page 6, Line 22)
- Requires amounts appropriated to restore the reserve fund to be paid to the Treasurer of State. (Page 6, Line 31)

REFUNDING

- Authorizes the Treasurer of State to refund outstanding appropriation bonds. (Page 7, Line 12)
- NOTE: The federal Internal Revenue Code permits tax-exempt bonds to be refunded one time. The Treasurer of State advises that any refunding would only occur if it was cost-effective because of decreasing interest rates.

INTENT OF GENERAL ASSEMBLY – NOT A LEGAL OBLIGATION

- Specifies the intent of the General Assembly to make timely appropriations to pay the debt service. Specifies that the intent language does not create, and is not to be construed as creating a general, legal, or enforceable obligation. The decision to appropriate funds is at the discretion of the General Assembly. (Page 8, Line 1)

NOT SUBJECT TO ACROSS-THE-BOARD REDUCTIONS

- Specifies that amounts appropriated for purposes of annual appropriation bonds payments are not subject to across-the-board reductions. (Page 8, Line 22)

DEBT SERVICE FUND AND

- Creates an Annual Appropriation Bonds Debt Service Fund for purposes of receiving the appropriations that are intended to pay the debt service on any outstanding appropriation bonds.

RESERVE FUNDS

(Page 8, Line 25 through Page 9, Line 16)

- Authorizes the Treasurer of State to create one or more reserve funds for purposes of issuing annual appropriation bonds. (Page 9, Line 17)

DIVISIONS II AND III

CREATION OF NEW FUNDS AND APPROPRIATIONS

APPROPRIATION BONDS CAPITALS (ABC) FUND

- Creates the ABC Fund to receive net proceeds from appropriation bonds issued and specifies that the ABC Fund will be used for infrastructure projects. Interest earned on the Fund will be credited to the Fund. (Page 9, Line 34)
- Requires an annual infrastructure report from State agencies for appropriations received from the ABC Fund by January 15. (Page 10, Line 31 through Page 11, Line 6)
- Requires any recipient of moneys from the ABC Fund to report on the status of use of funds to the State agency that received the appropriation on its behalf by December 31. (Page 11, Line 7)

VERTICAL INFRASTRUCTURE RESTRICTED CAPITALS (VIRC) FUND

- Creates the Vertical Infrastructure Restricted Capitals (VIRC) Fund for the purpose of public vertical infrastructure projects. Specifies that "vertical infrastructure" includes only land acquisition and construction, major renovation, and major repair of buildings, all appurtenant structures, utilities, and site development. Specifies that "vertical infrastructure" does not include routine, recurring maintenance, debt service, or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement. Provides an appropriation of $100.0 million from the ABC Fund to the Vertical Infrastructure Restricted Capitals Fund for FY 2011.
(Page 11, Line 22 through Page 12, Line 18)
- Requires an annual infrastructure report for appropriations received from the VIRC Fund by January 15. Requires any recipient of moneys from the VIRC Fund to report on the status of use of funds to the State agency that received the appropriation on its behalf by December 31.
(Page 12, Line 19 through Page 13, Line 5)

IOWA ENERGY CENTER

- Appropriates $5.0 million for deposit in the existing Alternate Energy Revolving Loan Fund for purposes of encouraging projects that develop alternative energy production facilities and small hydro facilities throughout the State. Specifies the Center must track the bond proceeds separately and may not use the funds for administration planning. (Page 13, Line 10)

APPLICABILITY DATES

- The authorization to issue appropriation bonds under Division I is not applicable until July 1, 2010.

ENACTMENT DATE

- This Act was approved by the General Assembly on April 25, 2009, and signed by the Governor on May 14, 2009.

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Senate File 477 provides for the following changes to the Code of Iowa.

Page #	Line #	Bill Section	Action	Code Section	Description
1	3	1	Adds	Sec. 12.90A	Authorization for Appropriation Bonds
8	25	2.1	Adds	Sec. 12.90B(1)	Creation of Annual Appropriation Bonds Debt Service Fund
9	17	2.2	Adds	Sec. 12.90B(2)	Authorizes Establishment of Reserve Funds
9	30	2.3`	Adds	Sec. 12.90B(3)	Retention of Interest Earnings for Debt Service and Reserve Funds
9	34	3	Adds	Sec. 12.90C(1-4)	Creates Appropriation Bonds Capitals Fund
10	31	3.5	Adds	Sec. 12.90C(5)	Reporting Requirement
11	7	3.6	Adds	Sec. 12.90C(6)	Additional Reporting Requirement
11	22	5	Adds	Sec. 8.57D	Creation of Vertical Infrastructure Restricted Capitals Fund

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DIVISION I
APPROPRIATION BONDS

Division I creates a new Section in Chapter 12, Code of Iowa, that authorizes the issuance of appropriation bonds. In addition, the Division creates two Sections that create funds related to the issuance of appropriation bonds.

Section 1. NEW SECTION . 12.90A ANNUAL APPROPRIATION BONDS.

1. As used in this section, unless the context otherwise requires:

a. "Annual appropriation bonds" means bonds, notes, or other evidences of obligations of the state which may be payable during a fiscal year from one or more of the following sources, subject to the limitations contained in this section:

(1) Moneys appropriated by law for the payment of debt service due with respect to the annual appropriation bonds during that fiscal year.

(2) Proceeds of the sale of the annual appropriation bonds.

(3) Payments received under authorizing documents and other agreements and ancillary arrangements entered into with respect to the annual appropriation bonds.

(4) Investment earnings on amounts described in subparagraphs (1) through (3).

b. "Appropriation" means an act of appropriation by the general assembly which has become law by approval of the governor or otherwise.

c. "Authorizing documents" means a trust indenture, resolution, or other instrument pursuant to which annual appropriation bonds are issued in accordance with the provisions of this section and setting forth the terms and conditions thereof.

CODE: Defines "annual appropriation bonds," "appropriation," and "authorizing documents" for purposes of Section 12.90A, Code of Iowa.

DETAIL: The "annual" in "annual appropriation bonds" refers to the appropriation that will be needed annually to pay the debt service on the outstanding appropriation bonds. It does not mean that appropriation bonds will be issued annually.

2. The treasurer of state is authorized to issue and sell annual appropriation bonds on behalf of the state to provide funds for certain infrastructure projects and other purposes as provided in subsection 4 and to refund any annual

CODE: Authorizes the Treasurer of State to issue and sell appropriation bonds to provide for capital projects and to refund the appropriation bonds as necessary.

DETAIL: Authorizes the Treasurer of State to issue appropriation

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appropriation bonds previously issued, and shall have all powers necessary and convenient to carry out the treasurer of state's duties, and exercise the treasurer of state's authority, under this section.

bonds. Appropriation bonds are a special type of limited obligation bond that do not require a designated revenue stream as does a typical revenue bond, thus the State may opt for any source of funds for repayment. Appropriation bonds also do not require the State to pledge its full faith or credit through taxes and resources or charge against the general credit or General Fund of the State as would be required for General Obligation (GO) bonds. Iowa does not have any outstanding GO bonds. Appropriation bonds are expressly conditioned on the State making an affirmative act to appropriate funds for repayment each fiscal year.

3. Annual appropriation bonds may be issued and sold in one or more series on the terms and conditions the treasurer of state determines to be in the best interest of the state, in accordance with this section in such amounts as the treasurer of state determines to be necessary to fund the purposes for which such annual appropriation bonds are issued. The treasurer of state may issue annual appropriation bonds in amounts which provide aggregate net proceeds of not more than one hundred five million dollars for purposes of alternative energy projects and for purposes of the vertical infrastructure restricted capitals fund created in section 8.57D.

CODE: Authorizes the Treasurer of State to issue appropriation bonds that provide maximum aggregate net proceeds of $105,000,000 for purposes of alternative energy projects and for the new Vertical Infrastructure Restricted Capital Fund.

DETAIL: This Subsection is not applicable until July 1, 2010. Appropriation bonds will not be issued until FY 2011. Also, in contrast to revenue bonds, appropriation bonds are marketable without a reserve fund. For a revenue bond, the source of repayment is a designated revenue stream and the debt service reserve fund is needed to protect bondholders in case the revenue stream is inadequate. For appropriation bonds, the source of funds for repayment is flexible and bondholders may not require a reserve fund. The estimated debt service payments depend on whether or not the reserve fund is necessary. For purposes of providing the projected debt amounts, the Treasurer of State assumed that a debt service reserve fund will be necessary.

FISCAL IMPACT: Debt service on the proposed bonds is estimated to be approximately $8,400,000 per year assuming a debt service reserve fund is needed. Bonds will be issued beginning July 1, 2010, and interest will be capitalized. The first debt service payment will be in FY 2012 and bonds will have a duration of approximately 22 years. The last bond payment is expected to be in FY 2034. Total new debt is projected to be approximately $213,000,000, reflecting principal of $117,200,000 and interest of $95,800,000. The projected interest rate on the appropriation bonds is approximately 4.95%.

4. The treasurer of state may issue annual appropriation

CODE: Authorizes the Treasurer of State to issue appropriation bonds as the treasurer of state determines necessary or desirable to pay for expenditures for certain infrastructure projects and other purposes as provided in subsection 3, to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor and to provide sufficient funds for the payment of interest on the annual appropriation bonds, the establishment of reserves with respect to the annual appropriation bonds, the payment of costs of issuance of the annual appropriation bonds, the payment of other expenditures of the treasurer of state incident to and necessary or convenient in connection with the issuance of the annual appropriation bonds, and the payment of all other expenditures necessary or convenient to carry out the purposes for which the annual appropriation bonds are issued. The treasurer of state may enter into or obtain authorizing documents and other agreements and ancillary arrangements with respect to annual appropriation bonds as the treasurer of state determines to be in the best interests of the state, including but not limited to trust indentures, liquidity facilities, remarketing or dealer agreements, letter of credit agreements, insurance policies, guaranty agreements, reimbursement agreements, indexing agreements, investment agreements, or interest exchange agreements. Any authorizing document or other agreement or ancillary arrangements by which any moneys are pledged to the payment of annual appropriation bonds shall not be required to be recorded or filed under the uniform commercial code, chapter 554, to be valid, binding, or effective.

bonds to fund infrastructure projects and to pay expenditures related to the issuance of the bonds. Authorizes the Treasurer of State to enter into certain agreements as determined to be in the best interests of the State with respect to appropriation bonds.

5. Annual appropriation bonds shall be:

a. In a form, issued in denominations, executed in a manner, and payable over terms and with rights of redemption, and be subject to such other terms and conditions as prescribed in their authorizing documents.

b. Negotiable instruments under the laws of the state and

CODE: Specifies the form and attributes of appropriation bonds.

DETAIL: The language is consistent with other general and specific bonding powers for the Treasurer of State in Chapter 12, Code of Iowa.

may be sold at prices, at public or private sale, and in a manner, as prescribed by the treasurer of state. Chapters 73A, 74, 74A, and 75 do not apply to the sale or issuance of the annual appropriation bonds.

c. Subject to the terms, conditions, and covenants providing for the payment of the principal, redemption premiums, if any, interest, and other terms, conditions, covenants, and protective provisions safeguarding payment, not inconsistent with this section and as determined by their authorizing documents.

d. Securities in which public officers and bodies of this state; political subdivisions of this state; insurance companies and associations and other persons carrying on an insurance business; banks, trust companies, savings associations, savings and loan associations, and investment companies; administrators, guardians, executors, trustees, and other fiduciaries; and other persons authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them.

6. Proceeds of annual appropriation bonds not required for immediate disbursement may be deposited with the treasurer of state or a trustee, paying agent, escrow agent, or depository as provided in the authorizing documents and may be invested or reinvested in any investment as directed by the treasurer of state and specified in such authorizing documents without regard to any limitation otherwise provided by law.

CODE: Authorizes proceeds from the appropriation bonds that are not required for immediate disbursement to be invested or reinvested in any investment as directed by the Treasurer of State.

DETAIL: The language is consistent with the Uniform Finance Procedures for State-Issued Bonds in accordance with Chapter 12A, Code of Iowa.

7. Annual appropriation bonds are payable in any fiscal year solely and only out of the moneys, assets, or revenues appropriated for such purposes by law for that fiscal year, all of which amounts, once appropriated, shall be deposited into the annual appropriation bonds debt service fund and used or transferred as provided in this section to pay debt service due with respect to annual appropriation bonds during the

CODE: Specifies the annual debt service on appropriation bonds is payable solely from the moneys appropriated for a certain fiscal year. Specifies the bonds are not a debt of the State, or a charge against the general credit or State General Fund. Annual appropriation bonds do not obligate the State to make payments beyond any fiscal year that has sufficient funds appropriated.

DETAIL: Appropriation bonds are expressly conditioned on an

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fiscal year for which such amounts are appropriated. Annual appropriation bonds are not an obligation, indebtedness, or debt of the state, or a charge against the general credit or general fund of the state, and the state shall not be liable for the payment of any amounts due under any annual appropriation bonds except from moneys appropriated by law for the payment thereof as provided under this section. The annual appropriation bonds are not secured by any pledge of the faith and credit or the taxing powers of the state. Annual appropriation bonds shall not directly or indirectly obligate the state to make payments thereon beyond any fiscal year for which sufficient funds have been appropriated by law for such purpose.	affirmative act by the State to make an appropriation for repayment each fiscal year. The bonds are a special limited obligation that does not constitute a debt obligation within the meaning of Article VII of the Iowa Constitution. The State's limited liability is solely for payments of amounts due that have already been appropriated to the Treasurer of State for the debt service payments on the appropriation bonds. Beyond any fiscal year that sufficient funds have been appropriated for the purpose of paying the debt service, the State is not obligated to make further payments.
8. In the event that funds are not appropriated for any fiscal year in an amount sufficient to make the payments of principal and interest and any other amounts due under the annual appropriation bonds during such fiscal year all of the following shall apply: a. The state's obligations under the annual appropriation bonds shall terminate and become null and void on the last day of the fiscal year for which funds were appropriated in an amount sufficient to make the payments of principal and interest and any other amounts due under the annual appropriation bonds for such fiscal year. b. The state shall not be obligated to make payment from any source of any amounts due under the annual appropriation bonds beyond those amounts for which an appropriation has previously been made. c. The state shall not be liable to the holders of the annual appropriation bonds or any other person for any remaining amounts due under the annual appropriation bonds or for any costs, damages, or expenses incurred by the holders of the annual appropriation bonds or any other person as a result of such failure to appropriate. Annual appropriation bonds, the repayment thereof and any reserve and debt service funds established with respect thereto shall be subject to	CODE: Specifies that if the funds are not appropriated for a fiscal year, the State will not be obligated to make a payment from any source of any amounts beyond the amount of the previous appropriation. The State will not be held liable for the debt or any repercussions from the lack of an appropriation for payment of the debt service. Annual appropriation bonds are subject to nonappropriation and are expressly conditioned on the State appropriating funds for repayment. Any annual appropriation bonds will include a statement for the bondholders stating the limitations of the State's liability.

nonappropriation. Annual appropriation bonds issued under this section shall contain a conspicuous statement of the limitations established in this subsection.

9. Annual appropriation bonds issued under this section are declared to be issued for an essential public and governmental purpose and all annual appropriation bonds issued under this section shall be exempt from taxation by the state of Iowa and the interest on the annual appropriation bonds shall be exempt from the state income tax and the state inheritance tax.

CODE: Specifies that appropriation bonds will be exempt from State taxes.

DETAIL: Appropriation bonds issued are expected to be exempt from federal taxes as well; however, the Treasurer of State will have the flexibility to take advantage of the Build America Bonds (BABs) authorized under the federal American Recovery and Reinvestment Act of 2009, if those bonds are more cost-effective and beneficial to the State. The BABs would have the same restrictions as tax-exempt bonds on the use of the proceeds and may only be issued for the same types of purposes as tax-exempt bonds. The difference is that BABS are taxable bonds that receive a federal subsidy of 35.00% of the interest payment so the borrowing costs may be lower under BABs than regular tax-exempt bonds. The opportunity for issuing BABS is limited by the federal Act and is only available in 2009 and 2010.

10. In order to better provide for the budgeting and appropriation of sufficient amounts to make the payments due with respect to annual appropriation bonds in any fiscal year and to fund or restore reserve funds established with respect to annual appropriation bonds, if any, the treasurer of state shall, on or before January 1 of each calendar year, make and deliver to the governor and to both houses of the general assembly the treasurer of state's certificate that includes all of the following:

a. A statement of the amount required to make the payments due with respect to annual appropriation bonds in the next succeeding fiscal year and the amount, if any, required to fund or restore any reserve fund to the reserve fund requirement for that reserve fund.

b. A request that budget and appropriation bills approved

CODE: Requires the Treasurer of State to report annually by January 1 to the Governor and the General Assembly the amount needed to make the payments for the debt service in the next fiscal year and any amount required to restore the reserve funds. Requires the Treasurer of State to annually request sufficient funds for the debt service payments.

DETAIL: Estimated annual debt service payments for FY 2012 through FY 2034 are expected to be approximately $8,400,000, depending on whether a reserve fund is needed. The Treasurer of State will certify the amount needed for payments each year so the General Assembly will know the exact amount to appropriate for that fiscal year.

for such fiscal year include amounts sufficient to make the payments due with respect to annual appropriation bonds during that fiscal year and to fund or restore any reserve fund to the reserve fund requirement for that reserve fund.

11. If, after amounts have been appropriated for a fiscal year to make payment of principal and interest and any other amounts due with respect to the annual appropriation bonds for such fiscal year and to fund or restore any reserve fund to the reserve fund requirement for that reserve fund, the treasurer of state determines that the amounts appropriated for such purposes are insufficient for any reason, the treasurer of state shall make and deliver to the governor and to both houses of the general assembly the treasurer of state's certificate that includes a statement of the amount of the deficiency and a request for an additional appropriation for such fiscal year to make up such deficiency.

CODE: Requires the Treasurer of State to report to the Governor and General Assembly the amount of the deficiency, if it is determined that the appropriations provided to make payments on the debt service or to restore or fund any reserve funds are insufficient for that fiscal year. Also, the Treasurer of State is required to request an additional appropriation to make up any deficiency for that fiscal year.

12. Any amounts appropriated by law from the general fund of the state or any other legally available funds to make the payments due with respect to annual appropriation bonds for a fiscal year shall be paid to the treasurer of state on or after the first business day of such fiscal year in as many installments as are needed to accumulate the total amount so appropriated as soon as funds become legally available and such amounts, as received, shall be deposited by the treasurer of state in the annual appropriation bonds debt service fund.

CODE: Requires the appropriation for payments on the debt service to be made to the Treasurer of State in as many installments as necessary to ensure the full amount is available to be deposited by the Treasurer of State in the Annual Appropriation Bonds Debt Service Fund.

DETAIL: This language was included to ensure the transfer of funds in accordance with the approved appropriation would be done in a timely manner so the Treasurer of State will have a sufficient balance in the debt service fund to pay the June and December payments.

13. Any amounts appropriated by law to fund or restore any reserve fund shall be paid to the treasurer of state as soon as funds become legally available and shall be deposited by the treasurer of state in the applicable reserve fund. For any fiscal year for which amounts have been lawfully appropriated in an amount sufficient to make payment of principal and interest and any other amounts due with respect

CODE: Requires any amounts appropriated to restore the reserve fund be paid to the Treasurer of State. Authorizes the Treasurer of State to transfer funds from the reserve fund to the Annual Appropriation Bonds Debt Service Fund for payments on the debt service, if appropriated funds are not fully available.

DETAIL: Appropriation bonds may not require a reserve fund; however, this Act provides authorization for the Treasurer of State to to annual appropriation bonds for such fiscal year, to the extent that appropriated funds have not become fully available so that amounts deposited into the annual appropriation bonds debt service fund are not sufficient to make such payment when due, any moneys on deposit in a reserve fund established with respect to the annual appropriation bonds may be transferred to the annual appropriation bonds debt service fund and used to make such payments, subject to the provisions of this section.

manage the reserve fund if one is necessary.

14. The treasurer of state may from time to time issue annual appropriation bonds for the purpose of refunding any annual appropriation bonds then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the date of redemption of the outstanding annual appropriation bonds. Until the proceeds of annual appropriation bonds issued for the purpose of refunding outstanding annual appropriation bonds are applied to the purchase or retirement of outstanding annual appropriation bonds or the redemption of outstanding annual appropriation bonds, the proceeds may be placed in escrow and be invested and reinvested in accordance with the provisions of this section, the authorizing documents, and any applicable escrow. The interest, income, and profits earned or realized on an investment may also be applied to the payment of the outstanding annual appropriation bonds to be refunded by purchase, retirement, or redemption. After the terms of the escrow have been fully satisfied and carried out, any balance of proceeds and interest earned or realized on the investments shall be returned to the general fund of the state. All refunding annual appropriation bonds shall be issued and subject to the provisions of this section in the same manner and to the same extent as other annual appropriation bonds issued pursuant to this section.

CODE: Authorizes the Treasurer of State to refund outstanding appropriation bonds.

DETAIL: This language is consistent with other specific and general bonding powers in Chapters 12 and 12A, Code of Iowa. Refunding allows the Treasurer of State to leverage lower interest rates for outstanding bonds. The federal Internal Revenue Code permits tax-exempt bonds to be refunded one time. The Treasurer of State advises that any refunding would only occur if it was cost-effective because of decreasing interest rates. The results would either be a decrease in debt service payments or the ability to generate additional proceeds for State use at the same amount of the existing debt service payments. Post-refunding debt service payments would not exceed pre-refunding debt service payments.

15. a. It is the intent of the general assembly that the

CODE: Specifies the intent of the General Assembly to make timely

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general assembly make timely appropriations from moneys in the general fund of the state or any other legally available funds that are sufficient to make payment of principal and interest and any other amounts due with respect to annual appropriation bonds in a fiscal year and to fund or restore any reserve fund established with respect to the annual appropriation bonds to the reserve fund requirement for that reserve fund. b. This section does not create and shall not be construed as creating a general, legal, or enforceable obligation of the general assembly to appropriate any moneys for any fiscal year for any of the foregoing purposes and the decision to appropriate such moneys for any fiscal year shall be at the complete discretion of the then current general assembly and governor who shall have the final responsibility for making such decisions.	appropriations to pay the debt service and to fund or restore any reserve fund that is established for purposes of annual appropriation bonds. Specifies that the intent language does not create and is not to be construed as creating a general, legal, or enforceable obligation. The decision to appropriate funds is at the complete discretion of the respective General Assembly and the Governor for each fiscal year.
16. Neither the treasurer of state nor any person acting on behalf of the treasurer of state, while acting within the scope of their employment or agency, is subject to personal liability resulting from carrying out the powers and duties conferred by this section.	CODE: Specifies that the Treasurer of State, or any person acting on behalf of the Treasurer, will not be subject to personal liability in executing the powers and duties in accordance with this Section.
17. Amounts appropriated pursuant to this section are not subject to a uniform reduction in accordance with section 8.31.	CODE: Specifies that funds appropriated for purposes of payments on the debt service for appropriation bonds are not subject to across-the-board reductions.
Sec. 2. <u>NEW SECTION</u> . 12.90B ANNUAL APPROPRIATION BONDS DEBT SERVICE FUND AND RESERVE FUNDS. 1. An annual appropriation bonds debt service fund is created and established as a separate and distinct fund in the state treasury. Any amounts lawfully appropriated to make payments due with respect to annual appropriation bonds for a fiscal year shall be deposited into the annual appropriation bonds debt service fund and used by the treasurer of state or transferred to a trustee, paying agent, escrow agent, or	CODE: Creates an Annual Appropriation Bonds Debt Service Fund for purposes of receiving the appropriations that are intended to pay the debt service on any outstanding appropriation bonds for each fiscal year. DETAIL: The projected amount for annual debt service payments is $8,400,000. Section 10 requires the Treasurer of State to report annually the amount needed to make the payments for the debt service in the next fiscal year.

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depository as provided in the authorizing documents to make payments due with respect to the annual appropriation bonds for that fiscal year. Payments due with respect to annual appropriation bonds include but are not limited to the following:	
a. Principal payments, interest payments, sinking fund payments, purchase price, redemption price, redemption premiums, and payments under interest exchange agreements.	
b. Fees and expenses of trustees, paying agents, remarketing agents, financial advisors, underwriters, depositories, guarantors, bond insurers, liquidity or credit facility providers, interest rate indexing agents, and other professional and financial services providers.	
c. Costs and expenses of the treasurer of state incident to and necessary and convenient to carry out the issuance and sale of the annual appropriation bonds and the administration of the appropriations bonds capitals fund, the annual appropriation bonds debt service fund, and any reserve funds.	
2. The treasurer of state may create and establish one or more reserve funds with respect to the annual appropriation bonds to be used as provided in section 12.90A and the authorizing documents. The treasurer of state shall pay into any reserve fund any moneys appropriated by law to fund or restore the reserve fund, any proceeds of the sale of the annual appropriation bonds to the extent provided in the authorizing documents, and any other moneys which may be legally available to the treasurer of state for the purpose of the reserve fund. Moneys in any reserve fund established with respect to annual appropriation bonds, excluding the annual appropriations debt service fund, are not subject to section 8.33.	CODE: Authorizes the Treasurer of State to create one or more reserve funds for purposes of issuing appropriation bonds. DETAIL: Appropriation bonds may not require a reserve fund, but this authorization allows the Treasurer of State to create reserve funds as necessary.
3. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in any funds or accounts established with respect to annual appropriation bonds shall be credited	CODE: Provides that the Annual Appropriation Bonds Debt Service Fund and any reserve funds will retain interest earned as a revenue source for the respective funds.

to the applicable fund or reserve fund.

Sec. 3. NEW SECTION . 12.90C APPROPRIATION BONDS CAPITALS FUND.

1. An appropriation bonds capitals fund is created as a separate fund in the state treasury. Moneys in the fund shall not be subject to appropriation for any other purpose by the general assembly, but shall be used only for the purposes of the appropriation bonds capitals fund.

2. Revenue for the appropriation bonds capitals fund shall include but is not limited to the following, which shall be deposited with the treasurer of state or the treasurer of state's designee as provided by any bond or security documents and credited to the fund:

a. The net proceeds of bonds issued pursuant to section 12.90A and investment earnings on the net proceeds.

b. Interest attributable to investment of moneys in the fund or an account of the fund.

c. Moneys in the form of a devise, gift, bequest, donation, federal or other grant, reimbursement, repayment, judgment, transfer, payment, or appropriation from any source intended to be used for the purposes of the fund.

3. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for certain infrastructure projects and other purposes set out in section 12.90A, subsection 3, to the extent practicable in any fiscal year and without limiting other qualifying capital expenditures considered and approved by a constitutional majority of each house of the general assembly and the governor.

4. Moneys credited to the fund are not subject to section 8.33. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the fund shall be credited to the fund.

CODE: Creates the Appropriation Bonds Capitals (ABC) Fund to receive net proceeds from appropriation bonds issued. Specifies that the ABC Fund will be used for vertical infrastructure projects and alternative energy projects to the extent practicable. Interest earned on the Fund will be credited to the Fund.

DETAIL: The new ABC Fund will receive $105,000,000 in net proceeds once the appropriation bonds are issued in FY 2011. Section 5.4 appropriates $100,000,000 from the ABC Fund to the new Vertical Infrastructure Restricted Capitals Fund (VIRC) in FY 2011. The General Assembly will have the new VIRC as a resource for appropriations during the 2010 Legislative Session. Section 6 appropriates $5,000,000 from the ABC Fund to the Iowa Energy Center for alternative energy projects in FY 2011. The ABC Fund will retain any interest earned on the Fund so any balance forward from interest earned will be available as a State resource for appropriation.

5. Annually, on or before January 15 of each year, a state

CODE: Requires an annual infrastructure report for appropriations received from the ABC Fund to the Legislative Services Agency (LSA)

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agency that received an appropriation from the appropriation bonds capitals fund shall report to the legislative services agency and the department of management the status of all projects completed or in progress. The report shall include a description of the project, the work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.	and Department of Management by January 15. Specifies the requirements for the report. DETAIL: This infrastructure status report is consistent with State reporting requirements for appropriations from any of the infrastructure, technology, and bonding-related funds.
6. Annually, on or before December 31 of each year, a recipient of moneys from the appropriation bonds capitals fund for any purpose shall report to the state agency to which the moneys are appropriated the status of all projects completed or in progress. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.	CODE: Requires a recipient of moneys from the ABC Fund to report by December 31, to the agency that received the appropriation on its behalf. Specifies the requirements for the report. DETAIL: This requirement is consistent with a new reporting requirement for recipients of moneys from the Rebuild Iowa Infrastructure Fund that is in HF 822 (FY 2010 Infrastructure Appropriations Act). Although current infrastructure status reports regarding the use of funds are required to be submitted to the LSA and the Department of Management (DOM) annually from any agency that receives an appropriation from the specified fund, there is a great deal of inconsistency in agency reports. Some reports are detailed, while others are not. This new requirement is an attempt to address the inconsistencies and provide more transparency of the use of infrastructure funds. Any recipient of funding, for any purpose, will need to report to the agency that received the appropriation. The agency will have greater detail to provide to the LSA and the DOM regarding the use of funds, no matter what the purpose.
Sec. 4. APPLICABILITY. The authority of the treasurer of state to issue one or more series of annual appropriation bonds under section 12.90A, subsection 3, as enacted in this division of this Act, applies to bonds issued on or after July 1, 2010.	CODE: The authority for the Treasurer of State to issue appropriation bonds is not applicable until July 1, 2010.

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DIVISION II MISCELLANEOUS CODE CHANGES Sec. 5. <u>NEW SECTION</u> . 8.57D VERTICAL INFRASTRUCTURE RESTRICTED CAPITALS FUND. 1. A vertical infrastructure restricted capitals fund is created in the state treasury under the authority of the department of management. The fund shall consist of appropriations made to the fund. The fund shall be separate from the general fund of the state and the balance in the fund shall not be considered part of the balance of the general fund of the state. However, the fund shall be considered a special account for the purposes of section 8.53, relating to generally accepted accounting principles. 2. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys in the vertical infrastructure restricted capitals fund shall be credited to the rebuild Iowa infrastructure fund. 3. Moneys in the fund in a fiscal year shall be used as appropriated by the general assembly for public vertical infrastructure projects. For the purposes of this section, "vertical infrastructure" includes only land acquisition and construction, major renovation, and major repair of buildings, all appurtenant structures, utilities, and site development. "Vertical infrastructure" does not include routine, recurring maintenance, debt service, or operational expenses or leasing of a building, appurtenant structure, or utility without a lease=purchase agreement. 4. There is appropriated from the appropriation bonds capitals fund created in section 12.90C to the vertical infrastructure restricted capitals fund one hundred million dollars for the fiscal year beginning July 1, 2010, and ending June 30, 2011.	CODE: Creates the Vertical Infrastructure Restricted Capitals (VIRC) Fund for the purpose of public vertical infrastructure projects. Specifies that “vertical infrastructure” includes only land acquisition and construction, major renovation, and major repair of buildings, all appurtenant structures, utilities, and site development. Specifies that “vertical infrastructure” does not include routine, recurring maintenance, debt service, or operational expenses or leasing of a building, appurtenant structure, or utility without a lease-purchase agreement. Makes an appropriation of $100,000,000 from the ABC Fund to the VIRC for FY 2011. DETAIL: The new VIRC Fund will be available as a resource for the General Assembly in the 2010 Legislative Session for purposes of making appropriations for FY 2011. As soon as the bond proceeds are received in the ABC Fund after July 1, 2010, the funds for the new VIRC Fund will become available. The definition of vertical infrastructure mirrors the definition in the former Vertical Infrastructure Fund under Section 8.57B, <u>Code of Iowa</u>. Appropriations from the VIRC Fund must meet restrictions for use of tax-exempt bond proceeds in accordance with the Internal Revenue Code as well as the definition of vertical infrastructure.
5. Annually, on or before January 15 of each year, a state agency that received an appropriation from the vertical infrastructure restricted capitals fund shall report to the legislative services agency and the department of management	CODE: Requires an annual infrastructure report for appropriations received from the VIRC Fund by January 15. Requires a recipient of moneys from the VIRC Fund to report by December 31, to the agency that received the appropriation on its behalf. Specifies the

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the status of all projects completed or in progress. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.

6. Annually, on or before December 31 of each year, a recipient of moneys from the vertical infrastructure restricted capitals fund for any purpose shall report to the state agency to which the moneys are appropriated the status of all projects completed or in progress. The report shall include a description of the project, the progress of work completed, the total estimated cost of the project, a list of all revenue sources being used to fund the project, the amount of funds expended, the amount of funds obligated, and the date the project was completed or an estimated completion date of the project, where applicable.

requirements for the reports.

DETAIL: This is consistent with State reporting requirements for appropriations from any of the infrastructure, technology, and bonding-related funds and with a new reporting requirement for recipients of moneys from the Rebuild Iowa Infrastructure Fund included in HF 822 (FY 2010 Infrastructure Appropriations Act). Although current infrastructure status reports regarding the use of funds are required to be submitted to the LSA and the DOM annually from any agency that receives an appropriation from the specified fund, there is a great deal of inconsistency in agency reports. Some reports are detailed, while others are not.

This new requirement is an attempt to address the inconsistencies and provide more transparency of the use of infrastructure funds. Any recipient of funding, for any purpose, will need to report to the agency that received the appropriation. The agency will have greater detail to provide to the LSA and the DOM regarding the use of funds, no matter what the purpose.

7. Payment of moneys appropriated from the fund shall be made in a manner that does not adversely affect the tax=exempt status of any outstanding bonds issued by the treasurer of state.

Requires the use of funds from the VIRC Fund to be made in a manner that does not jeopardize the tax-exempt status of bonds issued by the Treasurer of State.

DIVISION III
ANNUAL APPROPRIATION BONDS CAPITALS
FUND == APPROPRIATION

Sec. 6. There is appropriated from the appropriation bonds capitals fund created in section 12.90C to the Iowa energy center for the fiscal year beginning July 1, 2010, and ending June 30, 2011, the following amount, or so much thereof as is necessary, to be used for the purposes designated:

For deposit into the alternate energy revolving loan fund created in section 476.46 to encourage the development of alternate energy production facilities and small hydro

Appropriates $5,000,000 for FY 2011 from the ABC Fund to the Iowa Energy Center for deposit in the existing Alternate Energy Revolving Loan Fund for purposes of encouraging projects that develop alternative energy production facilities and small hydro facilities throughout the State. Requires the Center to track the bond proceeds separately and prohibits use of the funds for administration and planning.

DETAIL: This appropriation will be the second of two fiscal years of funding from bond proceeds for use by the Alternate Energy Revolving Loan Program administered by the Iowa Energy Center. Senate File 376 (Revenue Bonding and I-JOBS Program Act)

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facilities, as defined in section 476.42, within the state:
.... $ 5,000,000

Any award of loans to private individuals or organizations must be for the public purposes of encouraging the development of alternate energy production facilities and small hydro facilities within the state in order to conserve finite and expensive energy resources and to provide for their most efficient use. Funds from bond proceeds shall not be used for administration or planning purposes. These moneys, and any loan repayments, shall be maintained in separate accounts and shall only be used for these public purposes.

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appropriates $5,000,000 for FY 2010 for the Program from the revenue bond proceeds through an appropriation from the new Revenue Bonds Capitals Fund.